REMARKS

Status of Claims

The Office Action mailed February 6, 2006 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1-7 were pending in the application. Claims 1, 3, and 4 have been amended and no claims have been canceled or newly added. Therefore, claims 1-7 are pending in the application.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Section 112, Second Paragraph, Rejection

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended claims 1, 3, and 4 and believe these amendments address the issue raised in the office action.

Furthermore, applicants disagree that the earlier pending claims were indefinite. In particular, the office action alleges in paragraph 9 "[s]imply, *if* a particular time slot is dedicated to information transfer processing such that it cannot be used for reservation processing, *then* the scheduler can not (sic) 'independently assign' the slot to either information processing or reservation processing." This interpretation reads an "if-then" construct that was not present in the claim. Rather, the plain meaning of the claim language (as well as its description in the specification) implies that once the scheduler independently assigns a time slot for information transfer processing (or reservation processing) it cannot be used for both information transfer processing and reservation processing as shown in the prior art applied in the office action. Accordingly, the section 112 rejection should be withdrawn and is certainly inapplicable to the currently pending independent claims.

Prior Art Rejections

In the Office Action, claims 4 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over alleged applicant's admitted prior art (hereafter "AAPA") in view of U.S.

patent 5,724,351 to Chao et al. (hereafter "Chao") in further view of U.S. patent 6,269,439 ("Hanaki"). Applicant respectfully traverses this rejection for at least the following reasons.

Each of the independent claims 1, 3, and 4 recite, *inter alia*, that *scheduler having a plurality of scheduling modules* in a *packet switching system* assigns time slots of the same size for performing (1) *information transfer processing* that processes data to be transferred from one scheduling module to another and (2) *reservation processing* which determines an output port for switching data input from an input port (3) in a pipeline fashion where each of the time slots assigned for information transfer processing can only be used for information transfer processing and each of the time slots assigned for reservation processing can only be used for reservation processing.

As acknowledged in the office action, this recited feature is not disclosed by the combination of AAPA and Chao since the AAPA specifically teaches that the same time slot is used for performing both information transfer processing and reservation processing. Chao relates to a scaleable multicast ATM switch but is silent with respect to the feature (1)-(3) above. In this context, it should be noted that the PTO's review court has made it very clear that silence in a reference is hardly a substitute for clear and concrete evidence from which a conclusion of obviousness might justifiably flow. See, e.g., *Application of Burt*, 356 F.2d 115, 121 (CCPA 1966).

However, the office action then asserts that Hanaki cures the deficiencies of the AAPA and Chao with respect to the feature (3). However, Hanaki also does not disclose or suggest that information transfer processing and reservation processing in a packet switching system be performed in time slots of the same size such that each of the time slots assigned for information transfer processing can only be used for information transfer processing and each of the time slots assigned for reservation processing can only be used for reservation processing. That is, Hanaki also does not disclose the features missing in the AAPA and Chao and, therefore, the office action fails to make a *prima facie* of obviousness with respect to the pending independent claims as required by section 103.

Furthermore, Hanaki relates to signal processor for processing *instructions* in which the conventional stages of the *instruction processing* are performed in a pipeline fashion in which each of the pipeline stages are performed using the conventional stages in instruction processing (fetching instruction, decoding instruction, accessing memory, etc.). Nowhere does Hanaki teach or suggest that one of the conventional stages of the instructional processing be further partitioned in the manner claimed in the pending independent claims (in which the claimed invention further partitions a single conventional stage in the claimed switching process or system for pipelining purposes). In fact, that teaching is only provided by the applicants' disclosure which is an improper basis for piecing together the applicants' invention.

Furthermore, even if the applied combination discloses the claimed features, which it does not, there is no proper motivation for combining the references in the manner proposed in the office action. Specifically, Hanaki relates to a signal processor processing instructions which relates to the field of computer architecture and related processing and not a switching system which is in a non-analogous art to the claimed packet switching system. Furthermore, the Hanaki disclosure is also fundamentally different from the claimed system, since, unlike a switching system in which a plurality independent data inputs are switched to a plurality independent output ports, the signal processor taught by Hanaki relates to processing instructions typically in a serial (or branched) manner which completely different from the N x N processing (that is, essentially parallel) performed by the claimed packet switching system and method. Therefore, one of skill in the packet switching systems would not look for solutions in the field of computer architecture and instruction processing since the nature of the processing in these fields are fundamentally different from each other. Accordingly, applicant submits that the applied combination in the office action is based solely on an improper hindsight use of the applicant's disclosure and the applied rejection should be withdrawn.

Accordingly, applicant submits that the pending independent claims are patentable over the applied prior art.

The dependent claims are also patentable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional features which are also patentable when considered as a whole. For example, the specifics of the determination of the time slots of the same size the claimed switching systems is not disclosed or suggested by the applied prior art and these features provide additional reasons for the patentability of these claims.

Conclusion

In view of the above, applicant believes that the present application is now in condition for allowance. An early notice of the same is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

Respectfully submitted,

Date May 30, 2006

By Aaron C. Chatterjee

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5407
Facsimile: (202) 672-5399

David A. Blumenthal
Registration No. 26,257

Aaron C. Chatterjee
Registration No. 41,398

Attorneys for Applicant